

1 EDMUND G. BROWN JR.
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 KIM M. SETTLES
Deputy Attorney General
4 State Bar No. 116945
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2138
Facsimile: (510) 622-2270
7 E-mail: kim.settles@doj.ca.gov
Attorneys for Complainant
8
9

10
11 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
12 **STATE OF CALIFORNIA**
13

14 In the Matter of the Petition to Revoke Probation
Against:
15

Case No. 2009-171

16 **GRETCHEN OLVERA**
15 Country Club Drive
17 **Santa Barbara, CA 93103**
Registered Nurse License No. 763543

PETITION TO REVOKE PROBATION

18 **Respondent.**
19

20
21 Complainant alleges:

22 **PARTIES**

23 1. Louise R. Bailey, M.Ed., R.N. (Complainant) brings this Petition to Revoke Probation
24 solely in her official capacity as the Interim Executive Officer of the Board of Registered
25 Nursing.

26 2. On or about November 30, 2009, the Board of Registered Nursing (Board) issued
27 Registered Nurse License Number 763543 to Gretchen Olvera (Respondent). The Registered
28

1 Nurse License was in full force and effect at all times relevant to the charges brought here and
2 will expire on February 28, 2011, unless renewed.

3 3. In an action entitled, *In the Matter of the Statement of Issues Against Gretchen*
4 *Olvera*, Case No. 2009-171, the Board of Registered Nursing issued a decision, effective
5 November 29, 2009, in which the Board granted Respondent's application for licensure upon
6 successful completion of the licensure examination and all other licensing requirements. The
7 Board issued Registered Nurse License No. 763543 to Respondent as set forth in paragraph 2,
8 above. However, the license was revoked, the order of revocation was stayed and Respondent
9 was placed on probation for a period of three (3) years with certain terms and conditions. A copy
10 of that decision is attached as Exhibit A and is incorporated by reference.

11 JURISDICTION

12 4. This Petition to Revoke Probation is brought before the Board of Registered Nursing,
13 under the authority of the following laws. All section references are to the Business and
14 Professions Code unless otherwise indicated.

15 5. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent
16 part, that the Board may discipline any licensee, including a licensee holding a temporary or an
17 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
18 Nursing Practice Act.

19 6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
20 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
21 licensee or to render a decision imposing discipline on the license.

22 FIRST CAUSE TO REVOKE PROBATION

23 7. At all times after the effective date of Respondent's probation, Condition 15 stated
24 that Respondent shall abstain from the use of alcohol. Grounds exist for revoking the probation
25 and for imposing the revocation penalty that was stayed because on or about April 5, 2010,
26 Respondent admitted to consuming alcohol on December 31, 2009, January 1, 2010, January 11,
27 2010, and April 4, 2010.

28 //

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

PRAAYER

3. Taking such other and further action as deemed necessary and proper.

June 25, 2010

LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

Exhibit A

Decision and Order

Board of Registered Nursing Case No. 2009-171

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 2009-171

GRETCHEN OLVERA
70 Ford Road
Carmel Valley, CA 93924

Respondent

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on November 29, 2009.

IT IS SO ORDERED October 29, 2009.



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 EDMUND G. BROWN JR.

Attorney General of the State of California

2 WILBERT E. BENNETT

Supervising Deputy Attorney General

3 SHANA A. BAGLEY, State Bar No. 169428

Deputy Attorney General

4 1515 Clay Street, 20th Floor

P.O. Box 70550

5 Oakland, CA 94612-0550

Telephone: (510) 622-2129

6 Facsimile: (510) 622-2270

7 Attorneys for Complainant

8 BEFORE THE
9 BOARD OF REGISTERED NURSING
10 DEPARTMENT OF CONSUMER AFFAIRS
11 STATE OF CALIFORNIA

12 In the Matter of the Statement of Issues Against:

Case No. 2009-171

13 GRETCHEN OLVERA

70 Ford Road

14 Carmel Valley, CA 93924

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

Respondent.

15
16 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
17 above-entitled proceedings that the following matters are true:

18 PARTIES

19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of
20 the Board of Registered Nursing. She brought this action solely in her official capacity and is
21 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,
22 by Shana A. Bagley, Deputy Attorney General.

23 2. Respondent Gretchen Olvera (Respondent) is representing herself in this
24 proceeding and has chosen not to exercise her right to be represented by counsel.

25 3. On or about August 2, 2008, Respondent filed an application dated August
26 6, 2008, with the Board of Registered Nursing to obtain a Registered Nursing License.

27 ///

28

03/17/09

JURISDICTION

4. Statement of Issues No. 2009-171 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were properly served on Respondent on February 25, 2009. Respondent timely filed her Notice of Defense contesting the Statement of Issues. A copy of Statement of Issues No. 2009-171 is attached as Exhibit "A" and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Statement of Issues No. 2009-171. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Statement of Issues No. 2009-171.

9. Respondent agrees that her Registered Nursing License is subject to denial and she agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

///

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CIRCUMSTANCES IN MITIGATION

10. Respondent Gretchen Olvera has never been the subject of any disciplinary action. She is admitting responsibility at an early stage in the proceedings.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that the application of Respondent Gretchen Olvera for licensure is hereby granted. Upon successful completion of the licensure examination and all other licensing requirements, a license shall be issued to Respondent. Said license shall immediately be revoked, the order of revocation stayed and Respondent placed on probation for a period of three (3) years on the following conditions:

///

///

1 Severability Clause. Each condition of probation contained herein is a separate
2 and distinct condition. If any condition of this Order, or any application thereof, is declared
3 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
4 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
5 and enforceable to the fullest extent permitted by law.

6 1. Obey All Laws. Respondent shall obey all federal, state and local laws.
7 A full and detailed account of any and all violations of law shall be reported by Respondent to
8 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
9 compliance with this condition, Respondent shall submit completed fingerprint forms and
10 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
11 as part of the licensure application process.

12 Criminal Court Orders: If Respondent is under criminal court orders, including
13 probation or parole, and the order is violated, this shall be deemed a violation of these probation
14 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

15 2. Comply with the Board's Probation Program. Respondent shall fully
16 comply with the conditions of the Probation Program established by the Board and cooperate
17 with representatives of the Board in its monitoring and investigation of the Respondent's
18 compliance with the Board's Probation Program. Respondent shall inform the Board in writing
19 within no more than 15 days of any address change and shall at all times maintain an active,
20 current license status with the Board, including during any period of suspension.

21 Upon successful completion of probation, Respondent's license shall be fully
22 restored.

23 3. Report in Person. Respondent, during the period of probation, shall
24 appear in person at interviews/meetings as directed by the Board or its designated
25 representatives.

26 4. Residency, Practice, or Licensure Outside of State. Periods of
27 residency or practice as a registered nurse outside of California shall not apply toward a reduction
28 of this probation time period. Respondent's probation is tolled, if and when she resides outside

of California. Respondent must provide written notice to the Board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

Respondent shall provide a list of all states and territories where she has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing license during the term of probation.

5. **Submit Written Reports.** Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to Respondent's compliance with all the conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

Respondent shall provide a copy of this Decision to the nursing regulatory agency in every state and territory in which she has a registered nurse license.

6. **Function as a Registered Nurse.** Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may

grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply.

7. **Employment Approval and Reporting Requirements.** Respondent shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

Respondent shall provide a copy of this Decision to her employer and immediate supervisors prior to commencement of any nursing or other health care related employment.

In addition to the above, Respondent shall notify the Board in writing within seventy-two (72) hours after she obtains any nursing or other health care related employment. Respondent shall notify the Board in writing within seventy-two (72) hours after she is terminated or separated, regardless of cause, from any nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

8. **Supervision.** Respondent shall obtain prior approval from the Board regarding Respondent's level of supervision and/or collaboration before commencing or continuing any employment as a registered nurse, or education and training that includes patient care.

Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

(a) **Maximum** - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.

1 (b) Moderate - The individual providing supervision and/or collaboration is in
2 the patient care unit or in any other work setting at least half the hours Respondent works.

3 (c) Minimum - The individual providing supervision and/or collaboration has
4 person-to-person communication with Respondent at least twice during each shift worked.

5 (d) Home Health Care - If Respondent is approved to work in the home health
6 care setting, the individual providing supervision and/or collaboration shall have person-to-
7 person communication with Respondent as required by the Board each work day. Respondent
8 shall maintain telephone or other telecommunication contact with the individual providing
9 supervision and/or collaboration as required by the Board during each work day. The individual
10 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
11 site visits to patients' homes visited by Respondent with or without Respondent present.

12 9. **Employment Limitations.** Respondent shall not work for a nurse's
13 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
14 traveling nurse, or for an in-house nursing pool.

15 Respondent shall not work for a licensed home health agency as a visiting nurse
16 unless the registered nursing supervision and other protections for home visits have been
17 approved by the Board. Respondent shall not work in any other registered nursing occupation
18 where home visits are required.

19 Respondent shall not work in any health care setting as a supervisor of registered
20 nurses. The Board may additionally restrict Respondent from supervising licensed vocational
21 nurses and/or unlicensed assistive personnel on a case-by-case basis.

22 Respondent shall not work as a faculty member in an approved school of nursing
23 or as an instructor in a Board approved continuing education program.

24 Respondent shall work only on a regularly assigned, identified and predetermined
25 worksite(s) and shall not work in a float capacity.

26 If Respondent is working or intends to work in excess of 40 hours per week, the
27 Board may request documentation to determine whether there should be restrictions on the hours
28 of work.

10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of her probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to Respondent after photocopying them for its records.

11. **Violation of Probation.** If Respondent violates the conditions of her probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against Respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against Respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

12. **License Surrender.** During Respondent's term of probation, if she ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, Respondent may surrender her license to the Board. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be subject to the conditions of probation.

Surrender of Respondent's license shall be considered a disciplinary action and shall become a part of Respondent's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

///

1 (1) Two years for reinstatement of a license that was surrendered for any
2 reason other than a mental or physical illness, or

3 (2) One year for a license surrendered for a mental or physical illness.

4 13. Physical Examination. Within 45 days of the effective date of this
5 Decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or
6 physician assistant, who is approved by the Board before the assessment is performed, submit an
7 assessment of the Respondent's physical condition and capability to perform the duties of a
8 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
9 medically determined, a recommended treatment program will be instituted and followed by the
10 Respondent with the physician, nurse practitioner, or physician assistant providing written
11 reports to the Board on forms provided by the Board.

12 If Respondent is determined to be unable to practice safely as a registered nurse,
13 the licensed physician, nurse practitioner, or physician assistant making this determination shall
14 immediately notify the Board and Respondent by telephone, and the Board shall request that the
15 Attorney General's office prepare an accusation or petition to revoke probation. Respondent
16 shall immediately cease practice and shall not resume practice until notified by the Board.
17 During this period of suspension, Respondent shall not engage in any practice for which a license
18 issued by the Board is required until the Board has notified Respondent that a medical
19 determination permits Respondent to resume practice. This period of suspension will not apply
20 to the reduction of this probationary time period.

21 If Respondent fails to have the above assessment submitted to the Board within
22 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
23 practice until notified by the Board. This period of suspension will not apply to the reduction of
24 this probationary time period. The Board may waive or postpone this suspension only if
25 significant, documented evidence of mitigation is provided. Such evidence must establish good
26 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
27 provided. Only one such waiver or extension may be permitted.

28 ///

14. ~~CONFIDENTIAL~~ Participate in Treatment/Rehabilitation Program for Chemical Dependence. Respondent, at her expense, shall successfully complete during the probationary period or shall have successfully completed prior to commencement of probation a Board-approved treatment/rehabilitation program of at least six months duration. As required, reports shall be submitted by the program on forms provided by the Board. If Respondent has not completed a Board-approved treatment/rehabilitation program prior to commencement of probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in a program. If a program is not successfully completed within the first nine months of probation, the Board shall consider Respondent in violation of probation.

Based on Board recommendation, each week Respondent shall be required to attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board. If a nurse support group is not available, an additional 12-step meeting or equivalent shall be added. Respondent shall submit dated and signed documentation confirming such attendance to the Board during the entire period of probation. Respondent shall continue with the recovery plan recommended by the treatment/rehabilitation program or a licensed mental health examiner and/or other ongoing recovery groups.

15. Abstain from Use of Psychotropic (Mood-Altering) Drugs. Respondent shall completely abstain from the possession, injection or consumption by any route of all controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, the Respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Respondent shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of Respondent's history of substance abuse and will coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled

substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis Respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances.

The Board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

16. **Submit to Tests and Samples.** Respondent, at her expense, shall participate in a random, biological fluid testing or a drug screening program which the Board approves. The length of time and frequency will be subject to approval by the Board. Respondent is responsible for keeping the Board informed of Respondent's current telephone number at all times. Respondent shall also ensure that messages may be left at the telephone number when she is not available and ensure that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program and Respondent shall be considered in violation of probation.

In addition, Respondent, at any time during the period of probation, shall fully cooperate with the Board or any of its representatives, and shall, when requested, submit to such tests and samples as the Board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

If Respondent has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board files a petition to revoke probation or an accusation, the Board may suspend Respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

If Respondent fails to participate in a random, biological fluid testing or drug screening program within the specified time frame, Respondent shall immediately cease practice and shall not resume practice until notified by the Board. After taking into account documented evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the

1 Board may suspend Respondent from practice pending the final decision on the petition to
2 revoke probation or the accusation. This period of suspension will not apply to the reduction of
3 this probationary time period.

4 17. Mental Health Examination. Respondent shall, within 45 days of the
5 effective date of this Decision, have a mental health examination including psychological testing
6 as appropriate to determine her capability to perform the duties of a registered nurse. The
7 examination will be performed by a psychiatrist, psychologist or other licensed mental health
8 practitioner approved by the Board. The examining mental health practitioner will submit a
9 written report of that assessment and recommendations to the Board. All costs are the
10 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
11 result of the mental health examination will be instituted and followed by Respondent.

12 If Respondent is determined to be unable to practice safely as a registered nurse,
13 the licensed mental health care practitioner making this determination shall immediately notify
14 the Board and Respondent by telephone, and the Board shall request that the Attorney General's
15 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
16 practice and may not resume practice until notified by the Board. During this period of
17 suspension, Respondent shall not engage in any practice for which a license issued by the Board
18 is required, until the Board has notified Respondent that a mental health determination permits
19 Respondent to resume practice. This period of suspension will not apply to the reduction of this
20 probationary time period.

21 If Respondent fails to have the above assessment submitted to the Board within
22 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
23 practice until notified by the Board. This period of suspension will not apply to the reduction of
24 this probationary time period. The Board may waive or postpone this suspension only if
25 significant, documented evidence of mitigation is provided. Such evidence must establish good
26 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
27 provided. Only one such waiver or extension may be permitted.


28 ///

18. ~~CERTIFIED~~ ~~2012 NOV 01 10:03 AM~~ ~~2012 NOV 01 10:03 AM~~ Respondent, at her expense, shall participate in an on-going counseling program until such time as the Board releases her from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 5/15/09


GRETCHEN OLVERA
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

DATED: _____

EDMUND G. BROWN JR.
Attorney General of the State of California

WILBERT E. BENNETT
Supervising Deputy Attorney General

SHANA A. BAGLEY
Deputy Attorney General
Attorneys for Complainant

18. ~~Therapy or Counseling Program~~. Respondent, at her expense, shall participate in an on-going ~~counseling~~ program until such time as the Board releases her from this requirement and only upon the ~~recommendation~~ of the counselor. Written progress reports from the counselor will be required at various intervals.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: _____

GRETCHEN OLVERA
Respondent

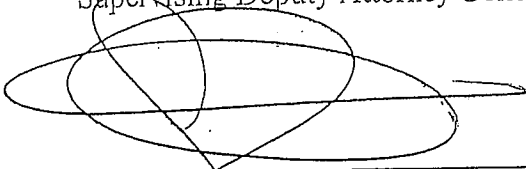
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

DATED: 3.18.09

EDMUND G. BROWN JR.
Attorney General of the State of California

WILBERT E. BENNETT
Supervising Deputy Attorney General



SHANA A. BAGLEY
Deputy Attorney General
Attorneys for Complainant

RECEIVED
JUN 25 1950
U.S. DEPT. OF
COMMERCE
WASHINGTON

Exhibit "A"

Statement of Issues No. 2009-171

RECEIVED
EDMUND G. BROWN JR. 22 S. M. ST. SAN FRANCISCO
Attorney General of the State of California
WILBERT E. BENNETT
Supervising Deputy Attorney General
SHANA A. BAGLEY, State Bar No. 159423102
Deputy Attorney General
1515 Clay Street, 20th Floor
P.O. Box 70550
Oakland, CA 94612-0550
Telephone: (510) 622-2129
Facsimile: (510) 622-2270

Attorneys for Complainant

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

Case No. 2009-171

GRETCHEN OLVERA
70 Ford Road
Carmel Valley, CA 93924

STATEMENT OF ISSUES

Respondent.

Complainant alleges:

PARTIES

1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Statement of Issues solely in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs.

2. On or about August 2, 2008, Gretchen Olvera (Respondent) certified under penalty of perjury to the truthfulness of all statements, answers, and representations in an application for a Registered Nursing License. On or about August 6, 2008, the Board of Registered Nursing, Department of Consumer Affairs (Board) received the application from Respondent. The Board denied the application on September 15, 2008.

RECEIVED

JULY 30 4 52 PM '88
JULY 30 4 52 PM '88
JULY 30 4 52 PM '88

1
2 3. This Statement of Issues is brought before the Board under the authority
3 of the following laws. All section references are to the Business and Professions Code (Code)
4 unless otherwise indicated.

5 STATUTORY PROVISIONS

6 4. Code section 2736 provides, in pertinent part, that the Board may deny a
7 license when it finds that the applicant has committed any acts constituting grounds for denial of
8 licensure under section 480 of that Code.

9 5. Code section 480 states, in pertinent part:

10 (a) A board may deny a license regulated by this code on the
11 grounds that the applicant has one of the following:

12 (1) Been convicted of a crime. A conviction within the meaning
13 of this section means a plea or verdict of guilty or a conviction
14 following a plea of nolo contendere. Any action which a board is
15 permitted to take following the establishment of a conviction may
16 be taken when the time for appeal has elapsed, or the judgment of
conviction has been affirmed on appeal, or when an order granting
probation is made suspending the imposition of sentence,
irrespective of a subsequent order under the provisions of Section
1203.4 of the Penal Code.

17 ...

18 (3) Done any act which if done by a licensee of the business or
19 profession in question, would be grounds for suspension or
revocation of license.

20 The board may deny a license pursuant to this subdivision only if
21 the crime or act is substantially related to the qualifications,
functions or duties of the business or profession for which
application is made. ...

22 6. Code section 2761 states, in pertinent part:

23 The board may take disciplinary action against a certified or
24 licensed nurse or deny an application for a certificate or license for
any of the following:

25 (a) Unprofessional conduct ...

26 (f) Conviction of a felony or of any offense substantially related to
27 the qualifications, functions, and duties of a registered nurse, in
28 which event the record of the conviction shall be conclusive
evidence thereof. ...

RECEIVED

7. Code section 2762 states in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter, unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(b) Use any . . . alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the . . . consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of . . . the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

8. Code section 2765 provides:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a registered nurse is deemed to be a conviction within the meaning of this article. The board may order the license or certificate suspended or revoked, or may decline to issue a license or certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

9. Code section 4022 provides, in pertinent part:

"Dangerous drug" . . . means any drug or device unsafe for self-use in humans or animals, and includes the following: . . .

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

27 ///

28 ///

RECEIVED
JUN 11 1972
DEPT. OF
REGISTERED NURSING
SACRAMENTO
10. Code section 4060 provides, in pertinent part, that "[n]o person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician . . ."

11. Penal Code section 1000, subdivision (d), provides that:

Deferred entry of judgment for a violation of Section 11368 of the Health and Safety Code shall not prohibit any administrative agency from taking disciplinary action against a licensee or from denying a license. Nothing in this subdivision shall be construed to expand or restrict the provisions of Section 1000.4.

REGULATORY PROVISIONS

12. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. . . .

DRUGS

13. "Cocaine" is a Schedule II drug as listed under section 11055, subdivision (f)(6), of the Health and Safety Code and is a dangerous drug pursuant to Business and Professions Code section 4022.

14. Marijuana is a Schedule I controlled substance as designated by Health and Safety Code section 11054, subdivision (d)(13), and is a dangerous drug pursuant to Business and Professions Code section 4022.

15. Drug paraphernalia is defined by Health and Safety Code section 11364.5, subdivision (d), as follows: . . .

[E]quipment, products, and materials of any kind which are intended for use or designed for use, in . . . packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. "Drug paraphernalia" includes, but is not limited to, all of the following: . . .

(9) Capsules, balloons, envelopes, and other containers intended for use or designed for use in packaging small quantities of controlled substances.

(10) Containers and other objects intended for use or designed for use in storing or concealing controlled substances.

RECEIVED

US YAM 2008

(12) Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as the following:

(A) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls. . . .

FIRST CAUSE FOR DENIAL OF APPLICATION

(Conviction of Crimes Substantially Related to Registered Nursing)

16. Respondent's application is subject to denial under Code sections 480, subdivision (a)(1), and 2761, subdivision (f), in that she was convicted of offenses substantially related to the qualifications, functions, and duties of a Registered Nurse, within the meaning of California Code of Regulations, title 16, section 1444. The circumstances are as follows:

a. On or about June 3, 2008, in the criminal proceeding People v. Gretchen Olvera, Monterey County Superior Court Case No. SS081027A, Respondent was convicted by guilty pleas of violating Health and Safety Code section 11350, subdivision (a), (Possession of a Narcotic/Controlled Substance), a felony, and Vehicle Code section 23152, subdivision (b), (Driving With .08% or more of Alcohol in her Blood), a misdemeanor, criminal offenses she committed on January 26, 2008.

b. Respondent was sentenced to serve 5 days in county jail and 5 years of informal probation. Respondent was ordered to participate in an 18-month drug diversion program, where upon completion, the guilty plea as to Health and Safety Code section 11350, subdivision (a), will be dismissed pursuant to the Penal Code section 1000 program. Respondent was also ordered to comply with additional terms and conditions.

c. The circumstances underlying the convictions are as follows: During a routine traffic stop by the Carmel Police Department, Respondent was observed to be intoxicated, disoriented, and to smell of alcohol. Respondent's blood alcohol level was .11% and .12% by volume. Cocaine, marijuana, and drug paraphernalia were found in her car and in her purse. Respondent admitted that she knew of the presence of the contraband.

///

///

RECEIVED
22 SECOND CAUSE FOR DENIAL OF APPLICATION

(Unprofessional Conduct: Possession of Controlled Substance)

17. Respondent's application is subject to denial under Code sections 2761, subdivision (a), and 2762, subdivision (a), in that Respondent obtained or possessed in violation of law, a controlled substance. The circumstances are more particularly set forth in Paragraph 16 and its subparts, above.

THIRD CAUSE FOR DENIAL OF APPLICATION

(Unprofessional Conduct: Use of Alcohol in a Dangerous Manner)

18. Respondent's application is subject to denial under Code sections 2761, subdivision (a), and 2762, subdivision (b), in that Respondent used alcoholic beverages in a manner dangerous or injurious to herself, any other person, or the public. The circumstances are more particularly set forth in Paragraph 16 and its subparts, above.

FOURTH CAUSE FOR DENIAL OF APPLICATION

(Unprofessional Conduct: Drug and Alcohol-Related Convictions)

19. Respondent's application is subject to denial under Code sections 2761, subdivision (a), and 2762, subdivision (c), in that Respondent was convicted of offenses involving the consumption of alcoholic beverages and the possession of a controlled substance. The circumstances are more particularly set forth in Paragraph 16 and its subparts, above.

FIFTH CAUSE FOR DENIAL OF APPLICATION

(Act Which if Done by Licentiate Would be Grounds for Suspension or Revocation)

20. Respondent's application is subject to denial under Code section 480, subdivision (a)(3), in that Respondent committed acts, which if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license. The circumstances are more particularly set forth in Paragraphs 16 -19 and their subparts, above.

///

///

///

///

RECEIVED

2009 MAY 20 PM 5:22
PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Denying the application of Gretchen Olvera for a Registered Nursing License; and
2. Taking such other and further action as deemed necessary and proper.

DATED: 2/17/09



RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SF2008402949